IN THE HIGH COURT OF GUJARAT AT AHMEDABAD.

SPECIAL CIVIL APPLICATION No 5810 of 1991

For Approval and Signature :

Hon'ble MR. JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the Judgment ?

2. To be referred to the Reporter or not?

3. Whether Their Lordships wish to see the fair copy of the Judgment ?

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?

5. Whether it is to be circulated to the Civil Judge?

VADODARA MUN. CORPN. KAMDAR KARMACHARI UNION
VERSUS
MUN. COMMISSIONER, VADODARA MUN. CORPN.

Appearance:
MR RD RAVAL for Petitioners
MR PRANAV G DESAI for Respondents No.1 and 2

CORAM : MR JUSTICE S.K. KESHOTE
Date of Decision : 24/07/2000

C.A.V. JUDGMENT

1. Having heard the learned counsel for the parties, I do not find any substance in this special civil application and the same deserves to be dismissed.

2. The petitioners' prayed for the following

reliefs in this special civil application:

(A) Your Lordships may be pleased to issue a writ in the nature of mandamus or Certiorari or any other appropriate writ, order or direction on respondents to compel them to pay Full Salary with allowance and all other benefits in the proper pay scale (treating Rs.1200/- as basic) from the date of joining to Mr. Meghraj Ganpatsingh Chauhan and Mr. Balkrishna Dajirao Ingle, and further be pleased to direct the respondents to confirm the above workmen in the services for having completed 720 days services, and

(B) Your Lordships may be pleased to direct the respondents to give all consequential benefits on account of granting Prayer (A) as above.

(C) Your Lordships may be pleased to direct the respondents to be refrained from terminating the services of Mr. M.G. Chauhan and Mr. B.D. Ingle by way of Artificial Breaks or otherwise in any manner, during the pendency and final disposal of this petition and further be pleased to direct the respondents to pay Rs.1800/lumpsum per month during the pendency and final disposal of this petition to above workmen.

(D) Your Lordships may be pleased to grant any other and further relief that may be deemed fit and proper as per the facts and circumstances of this case.

(E) Your Lordships may be pleased to grant cost of this petition.

3. The petitioners are the ex-military personnels. They have been given the appointments by the Corporation but their appointments were purely temporary appointments without there being any selection. It is understandable that there may be reservation in service for ex-military personnel but they cannot be given any appointments without following the procedure prescribed for the recruitment either under the rules framed by the Corporation or following the Articles 14 and 16 of the Constitution. These appointments of the petitioners were only back door entries. The petitioners cannot be given the relief of the nature as prayed for otherwise this court will encourage the illegal and unconstitutional appointments in the services of the

Corporation. The Corporation is a constitutional body and all the recruitments and appointments are to be made in the services strictly in compliance with the recruitment rules or the provisions under Article 14 and 16 of the Constitution of India. Even in the temporary appointments as well as the appointments on daily wages to continue for a period of more than three months, the same are to be made strictly in compliance with the recruitment rules and the constitutional provisions. The award of the Tribunal on which reliance has been placed is also of little help to the petitioners. If any award confers the benefit on the employees, those appointments are bad in law or illegal or violative of Articles 14 and 16 this Court will not enforce such an award and more so to confer identical benefits to the petitioners. This Court under Article 226 of the Constitution exercises extraordinary equitable jurisdiction. The protection under Article 226 of the Constitution is only meant for those employees who are legally inducted in services. Violators of law and the beneficiaries of the illegal appointments cannot be protected.

4. In the result, this special civil application fails and the same is dismissed. Rule discharged. Interim relief, if any, granted stands vacated. In the facts of this case, no order as to costs as the respondent-Corporation is equally responsible for all these illegal appointments.

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